

Amendment No. 1 to HB3125

Watson
Signature of Sponsor

AMEND Senate Bill No. 2637*

House Bill No. 3125

by deleting the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 29-39-104, is amended by adding the following as a new subsection thereto:

(g)

(1) Notwithstanding subdivision (a)(9), punitive damages may be awarded against a defendant based on vicarious liability for the acts or omissions of an agent or employee only if the finder of fact determines by special verdict based on clear and convincing evidence that the agent or employee was acting within the scope of the actual authority granted to the agent or employee by the defendant and:

(A) The act or omission was committed by a person employed in a management capacity and that employee was acting within the scope of that capacity;

(B) The defendant was reckless in hiring, retaining, supervising or training the agent or employee and that recklessness was the proximate cause of the act or omission that caused the loss or injury; or

(C) The defendant authorized, ratified or approved the act or omission of the agent or employee with knowledge or conscious disregard for the loss or injury.

(2) Nothing in this subsection (g) shall be construed to expand or increase the scope of vicarious liability or punitive damages liability under Tennessee law.

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(3) For purposes of this subsection (g), “a person employed in a management capacity” means a management-level employee with the stature and authority to set policy and exercise control, discretion, and independent judgment over a significant scope of the employer’s business.

SECTION 2. This act shall take effect July 1, 2012, the public welfare requiring it.